

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

**R.R. STREET & CO. INC. and  
NATIONAL UNION FIRE INSURANCE  
COMPANY OF PITTSBURGH, PA, as  
subrogee of R.R. Street & Co. Inc.  
Plaintiffs,**

**V.**

**VULCAN MATERIALS COMPANY, n/k/a  
LEGACY VULCAN CORP.,  
Defendant.**

**Case No. 1:08-CV-01182**

**Judge: Hon. Virginia M. Kendall**

**(Jury Requested)**

**R.R. STREET & CO. INC.'S MOTION FOR LEAVE TO FILE SURREPLY IN  
RESPONSE TO LEGACY VULCAN CORP.'S MOTION TO DISMISS OR, IN THE  
ALTERNATIVE, STAY PLAINTIFFS' AMENDED COMPLAINT**

Plaintiff R.R. Street & Co. Inc. (“Street”) files this its Motion for Leave to File Surreply in Response to Legacy Vulcan Corp.’s (“Vulcan”) Motion to Dismiss Or, In The Alternative, Stay Plaintiff’s Amended Complaint, and in support hereof will show as follows:

Vulcan filed its Motion to Dismiss (Docket No. 22) on May 12, 2008. Street filed its Response to Vulcan's Motion to Dismiss (Docket No. 29) on June 4, 2008. Vulcan then filed its Reply in Support of Its Motion to Dismiss or, in the Alternative, Stay (Docket No. 32) on June 27, 2008. Pursuant to the Court's Order dated May 20, 2008, the decision date for Vulcan's Motion to Dismiss is July 31, 2008.

In its Reply, Vulcan raises issues that were not raised in its Motion to Dismiss. In particular, there have been developments in the two cases in California on which Vulcan relies that are discussed in Vulcan's Reply that occurred after Street filed its Response. Additionally, since Street filed its Response, the Seventh Circuit has issued an opinion that is relevant to the

legal issues raised by the Motion to Dismiss. Street respectfully requests leave to file its Surreply (attached as Exhibit 1) so that it may respond to these newly raised arguments.

WHEREFORE, PREMISES CONSIDERED, Street prays that the Court grant this Motion for Leave and for such further relief as it may show itself entitled.

DATED: July 7, 2008.

Respectfully submitted,

HICKS, THOMAS & LILIENSTERN, LLP

/s/ John B. Thomas

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**ATTORNEYS FOR PLAINTIFF,  
R.R. STREET & CO. INC.**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing instrument was served upon all parties, by and through their counsel of record, electronically via the Court's ECF system on this the 7<sup>th</sup> day of July, 2008.

/s/ John B. Thomas

John B. Thomas